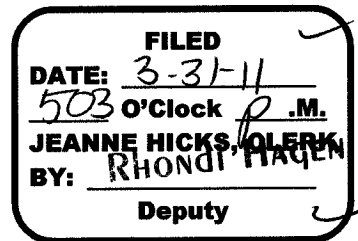


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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI



DIVISION PRO TEM B

JEANNE HICKS, CLERK

HON. WARREN R. DARROW

BY: R. Hagen, Deputy Clerk

CASE NO. V1300CR201080049

DATE: March 31, 2011

TITLE:

COUNSEL:

STATE OF ARIZONA,

Yavapai County Attorney
Sheila Polk/Bill Hughes,
(Via OnBase)
(For Plaintiff)

(Plaintiff)

v.

JAMES ARTHUR RAY,

Thomas K. Kelly,
(Via electronic mail)
(Co-Counsel for Defendant)

(Defendant)

Luis Li/Brad Brian/Truc Do/Miriam Seifter
MUNGER TOLLES & OLSON LLP,
(Via electronic mail)
(Co-Counsel for Defendant, *Pro Hac Vice*)

HEARING ON:
TRIAL – Day 25

NATURE OF PROCEEDINGS

COURT REPORTER
Mina Hunt

START TIME: 9:04 a.m.

APPEARANCES:

Sheila Polk, Counsel for State
Bill Hughes, Co-Counsel for State
Detective Ross Diskin, Case Agent
James Arthur Ray, Defendant
Tom Kelly, Co-Counsel for Defendant
Luis Li, Co-Counsel for Defendant
Truc Do, Co-Counsel for Defendant
Miriam Seifter, Co-Counsel for Defendant
Victim Services Representative

The Jury is not present.

The Court and Counsel discuss the previously raised disclosure issue, expert witness testimony of Dr. Lyon and his possible review of 2005 medical records and the use of the term organophosphates. The Parties are reminded that this trial will not be a trial by surprise. The Court notes that the State has not objected to the defense of causation or the Defense disclosure regarding experts. Discussion continues. Defense Counsel declines the Court's offer to interview Dr. Lyon prior to his testimony and advises that the Defense is ready to proceed. The Court is advised by both Counsel that Dr. Lyon states he did not review the 2005 records.

The Court finds that the State has not been surprised in any way by the mention of organophosphates and that the State did not complain about the nature of disclosure. The State may question the expert witness regarding organophosphates.

The Court is advised by Counsel for State Hughes that the same issue may arise regarding another expert witness. The State will afford the Defense an opportunity to interview the witness prior to testimony. Counsel are advised to schedule any such interview so that the Jury's schedule can be adjusted if necessary.

With regard to the previously raised issue of Mr. and Mrs. Hamilton providing testimony, the Court advises that this is not the time for investigation. The Rules do allow for late disclosure in unusual circumstances, but in general, this is not the time to be investigating matters that had been disclosed and talked about for over a year.

~~~Recess~~~

At 9:27 a.m. the trial resumes with all previously appearing parties and the Jury present.

Dr. Robert Lyon is sworn and testifies.

Exhibits 370, 371, 373, 375, 376, 377, 378, 379 are offered and admitted into evidence without objection.

The Jury is reminded of the admonition and excused for a recess. The witness is advised of the Rule of exclusion of witnesses and excused for a recess.

~~~Recess~~~

At 10:59 a.m. the trial resumes with all previously appearing parties and the Jury present.

Dr. Robert Lyon resumes the witness stand and testifies further.

Exhibit 372 is offered and admitted into evidence without objection.

The Jury is reminded of the admonition and excused for the noon recess. The witness is reminded of the Rule of exclusion of witnesses and excused for the noon recess.

~~~Noon Recess~~~

At 1:34 p.m. the trial resumes with all previously appearing parties and the Jury present.

Dr. Robert Lyon resumes the witness stand and testifies further.

Exhibit 811 is offered and admitted into evidence pursuant to stipulation of Counsel.

At 2:50 p.m. the Court and Counsel conduct a sidebar discussion on the record.

The Jury is reminded of the admonition and excused for a recess. The witness is reminded of the Rule of exclusion of witnesses and excused for a recess. The Jury and the witness leave the courtroom.

The sidebar discussion continues in open court. The State's intended line of questioning on redirect of this witness and the possibility of the Defense opening the door to previous events is discussed. Counsel are advised that Dr. Lyon will not be excused as a witness in this matter.

The Court and Counsel discuss scheduling of witnesses.

~~~Recess~~~

At 3:35 p.m. the trial resumes with all previously appearing parties and the Jury present.

Dr. Robert Lyon resumes the witness stand and testifies further.

Questions for the witness are submitted by the Jury, discussed at sidebar on the record and are asked and answered.

The witness is reminded of the Rule of exclusion of witnesses and excused, subject to recall.

~~~Recess~~~

At 4:05 p.m. the trial resumes with all previously appearing parties and the Jury present.

Gregory John Vanderhaar is sworn and testifies.

Questions for the witness are submitted by the Jury, discussed at sidebar on the record and are asked and answered.

The witness is advised of the Rule regarding exclusion of witnesses, excused and leaves the courtroom. The Jury is reminded of the admonition, instructed to return at 9:15 a.m. in the morning and leaves the courtroom.

The Court and Counsel discuss the witness Michael Hamilton, witness scheduling and discovery.

~~~Recess~~

At 5:00 p.m. the trial resumes without the Jury present.

The Court advises Counsel that the name of Michael Hamilton was not read as a witness during voir dire. Counsel are advised that the Court reviewed the State's amended list of witnesses which added this witness. The Court will permit a defense interview of this witness.

Scheduling of witnesses is discussed further.

The Court stands adjourned for the day.

END TIME: 5:03 p.m.

cc: Gallagher & Kennedy, P.C., Counsel for Shore Family (e)
Murphy, Schmitt, Hathaway & Wilson, PLLC, Co-Counsel for Brown Family (e)
Stone & Magnanini, Co-Counsel Brown Family (e)
Aspey, Watkins & Diesel, PLLC, Counsel for Neuman Family (e)
Steptoe & Johnson, Counsel for KPNX Broadcasting Company, TruTV and In Session (e)
Perkins, Coie, Brown & Bain, Counsel KTVK-TV (e)
Division PTB (e)
Victim Services (e)
Court Administration
Customer Service Supervisor, Verde